

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5740 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT RAJYA SAHAKARI JAMIN VIKAS LTD EMPLOYEES MAZ. SABHA  
Versus  
GUJARAT STATE CO-OP LAND DEVELOPMENT BANK LTD  
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Appearance:

MR JJ SHAH for Petitioners  
NOTICE SERVED for Respondent No. 1  
MR SN SHELAT for Respondent No. 2

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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 23/02/2001

ORAL JUDGEMENT

#. With a view to see that as much old matters as are possible are disposed of, the Honourable the Chief Justice has, in the last few Sittings, notified that all the Honourable Judges of this Court would sit in Single

Bench on all Fridays and take up old final hearing matters. Accordingly, except in few urgent matters, all the Honourable Judges of this Court are sitting in Single Bench on all Fridays to achieve this goal. The Sittings are announced much earlier, and matters are also notified well in advance. It, therefore, becomes the moral responsibility of all Advocates concerned to give fillip to this endeavour so as to reduce the number of old cases pending for disposal. However, it is a sorry state of affairs that when this matter is called out today, learned Advocate for the petitioner is not present before the Court.

#. This petition is filed by the workman against the award made by the Industrial Tribunal in Reference I.T. No. 474/82 on 16.10.87. The dispute was referred to the Tribunal. The question referred was whether Mr. B.V. Shah is to be treated as promoted as Supervisor from 1.4.67 and that his pay be re-fixed and he be placed below Mr. D.G. Chaudhari and be paid the difference in wages and other incidental benefits. The Tribunal though arrived at a conclusion that there appears technical breach in not promoting the workman earlier, but it is difficult to make the award in view of gross delay, laches and acquiescence.

#. In para 11 it is pointed out that the workman was promoted. It is observed that it is true that the effect was given to his junior by promotion order exh. 22 which was effective from 1.5.67. But in the case of Shri R.V. Shah, the effect was given from 1.1.69. Thus, after a period of almost 13 years, allegation was made that the seniority list is not followed and promotion is given to others. The Apex Court in the case of K.R. Mudgal & ors. v. R.P. Sing and others, AIR 1986 SC 2086 has pointed out as under.

"It is essential that any one who feels aggrieved by the seniority assigned to him should approach the Court as early as possible as otherwise in addition to the creation of a sense of insecurity in the minds of the Government servants there would also be administrative complications and difficulties."

#. In case of Malcom Lawrence Cecil D'souza v. Union of India AIR 1976 SC 1269, the court pointed out as under.

"It is essential that anyone who feels aggrieved with the administrative decision affecting one's seniority should act with due diligence and

promptitude and not sleep over the matter. No satisfactory explanation has been furnished by the petitioner before us for the inordinate delay in approaching the Court. It is no doubt true that he made a representation against the seniority list issued in 1958 and 1968 but that representation was rejected in 1961. No cogent ground has been shown as to why the petitioner became quiescent and took no diligent steps to obtain redress."

The Tribunal pointed out in para 14 that Mr. Shah made representation to the Bank on 5.4.73 for the first time. The second representation was made on 14.7.80. Mr. Chaudhari was challenging the seniority as per the list as on 31.12.72 vide exh. 13. Thus, he was asking to redress the grievance about the seniority as per the list dated 31.12.72 in the year 1980. The Tribunal also observed that there was gross delay on the part of Mr. B.V. Shah to raise the dispute. It was necessary for him to have raised the dispute at an early date. In view of the gross delay, the Tribunal has passed order which requires no interference by this Court. The petition is therefore rejected. Rule is discharged.

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